

Submitted	<u>September 14, 2005</u>
Resubmitted	<u>September 28, 2005</u>
Approved	<u>As Written</u>
Date	<u>September 28, 2005</u>

**MINUTES OF THE ROCKVILLE PLANNING COMMISSION
MEETING NO. 12-05
Wednesday, June 28, 2005**

The City of Rockville Planning Commission convened in regular session in the City Hall Council Chamber Room at 7:00 p.m., Wednesday, June 28, 2005.

PRESENT

**John Britton, Chair
Gerald Holtz Steve Johnson
Frank Hilton Robin Wiener**

Absent: Kate Ostell

Present: Art Chambers, Director of Community Planning & Development Services
Deane Mellander, Acting Chief of Planning
Sondra Block, Assistant City Attorney
Castor Chasten, Planner III
Sandra Marks, Transportation Division
John Scabis, Transportation Division
Rebecca Torma, Planner II
Margaret Hall, Planner II

RECOMMENDATION TO THE MAYOR AND COUNCIL

Text Amendment Application TXT2005-00216, Mayor and Council of Rockville

The applicant is requesting to amend the Zoning Ordinance change the size and setback standards for accessory buildings in single-family detached residential zones.

Ms. Hall presented the staff report. Ms. Hall stated that the Mayor and Council have requested the Planning Commission to review this text amendment and reduce the size of a permitted accessory structure to a size that is compatible with the existing houses and neighborhoods. This request is in response to some recent applications for some large accessory buildings. Ms. Hall stated that staff looked at the neighborhoods and concluded that most of the accessory buildings are within the R-60 Zone. She noted that accessory buildings within residential zones are currently limited to one story, fifteen feet in height and may not cover more than ten percent of the area of the smallest lot allowed in the zone. For example, the largest accessory building allowed in the R-60 zone is 600 square feet,

900 square feet in the R-90 Zone, 2,000 square feet in the R-S Zone and 4,000 square feet in the R-E Zone, etc.

Ms. Hall explained the Twinbrook and East Rockville neighborhoods have the highest concentration of accessory buildings in a variety of sizes. Ms. Hall explained that post World War II development in the area led to the “cookie cutter” type of subdivisions that were quickly erected to serve returning veterans and provide housing for governmental agencies in the Washington area. The homes were often erected on concrete slabs or crawl spaces and did not contain an outbuilding of any type. In other developments, there are some basements with most of the properties containing carports, but fewer and smaller accessory buildings. She said it is clear that the need for an accessory building is tied to the need for vehicle coverage and storage in both older and newer neighborhoods.

Ms. Hall said that staff recommends that the maximum size of an accessory building be limited to four hundred square feet in the R-40 Zone and six hundred square feet in all other single-family residential zones. Since most families own two cars and because there is always a need for storage space, six hundred square feet seems to be a reasonable limitation on the size of an accessory structure.

Ms. Hall stated that one thing that may make additional structures nonconforming is that proposed limitation that any accessory building that exceeds twelve feet in height would have to be setback an additional two feet for every foot it exceeds twelve feet up to a setback of ten feet for accessory buildings reaching the maximum height of fifteen feet. Because accessory structures are deemed uninhabitable, they have traditionally been allowed to come to within three feet of the side or rear property line and required to be placed in the rear yard, which is behind the rear wall of the house or any projection from the house, such as an eave, porch or deck. The three-foot setback allows for maintenance around the structure.

In response to the Commission, Mr. Mellander stated that accessory structures are detached structures.

The Planning Commission discussed concerns regarding non-conforming accessory structures regarding size and setback requirements.

The following citizen testified:

Harry Thomas, 1121 Lewis Avenue, questioned the definition of accessory buildings. He also inquired whether the structures are inhabitable and whether accessory structures meet the fire code requirements. Ms. Hall explained the definition and noted that the fire code requirement would have to be explained by the Inspection Services Division.

After further discussion, Commissioner Holtz moved, seconded by Commissioner Wiener to recommend approval of Text Amendment Application TXT2005-00216, Mayor and Council of Rockville per staff recommendations. The motion passed on a vote of 5-0.

RECOMMENDATION TO THE BOARD OF APPEALS

Variance Application APP2005-00845, Montgomery County Public Schools

The applicant is requesting approval to allow an eight-foot masonry screen wall around an emergency generator located at 850 Hungerford Drive.

Mr. Chasten presented the staff report. Mr. Chasten stated that the applicant seeks a zoning variance from the 42-inch height limit restriction applicable to a fence, wall, or hedge when located in the front yard area of a subject property. The applicant and property owner (the Montgomery County Public School's Board of Education) plans to construct a 96-inch (8 foot) tall screen to shield a new emergency generator and other associated equipment in the front yard of the subject property located at the northwest corner of the rear of the existing Board of Education office building facing Mannakee Street (850 Hungerford Drive). The facility is known today as the Carver Educational Services Center (CESC). The property is approximately 30 acres in size and zoned for R-S (Residential Suburban) land usage. Several years ago, a significant portion of the former high school site, along with its building facilities, received historic district designation by the Mayor and Council. However, the area of the site that is subject to this zoning variance request is not located within the site designated historic district.

Mr. Chasten stated that the proposed screen wall enclosure would be located 10 feet from the front lot line of the subject property located along Mannakee Street. In order to construct the screen wall enclosure, the applicant is seeking approval of the height variance request. The screen wall would be constructed with building materials compatible with that of the existing CESC building façade.

The Planning Commission discussed the kinds of equipment that would be enclosed, the location of the enclosure to the sidewalk, and replacement of trees, if removed.

Clarence Scott with MCPS presented the applicant's request. In response to the Board, Mr. Scott explained that the screen wall would enclose a new emergency generator. A small emergency generator is located by the cafeteria, which takes care of emergency exit lights and other emergency lights around the building.

In response to Commissioner Johnson, Mr. Scott stated that to replace the small emergency generator with a larger generator would not be feasible because there are size restrictions that would not allow a larger generator in that location. In addition, other locations for the proposed generator and accompanying equipment would be disruptive to the site because such a location would be further away from the building's electrical switchgear equipment.

The following citizen testified:

Harry Thomas, 1121 Lewis Avenue, questioned whether the building has been designated historic. Mr. Chasten replied that only the entrance part of the building has been designated because it is part of the original construction.

Commissioner Johnson questioned the conditions peculiar to the property. Ms. Block explained that this condition is a hard standard to meet. It could be the configuration or location of the property that would not be the result of any actions taken by the applicant. She noted that the Board of Appeals would have to articulate the uniqueness that would justify the requested variance.

Mr. Chasten asked the Commission to look at the aerial photo of the property. He noted the placement of the building on the property. Ms. Block asked that the Commission must find something peculiar about the property, not the peculiar need of the applicant.

The Commission continued to discuss concerns regarding the three findings to approve the variance. Commissioner Britton clarified the standards of approval.

Commissioner Johnson moved, seconded by Commissioner Hilton not to recommend approval of Variance Application APP2005-00845, Montgomery County Public Schools to the Board of Appeals based on Condition 2 regarding the finding of conditions peculiar to the property and not the result of any actions taken by the applicant. The Commission did not find anything peculiar about the property to warrant granting of a variance. The motion passed on a vote of 4-1 with Commissioner Wiener voting nay.

REVIEW AND ACTION

Use Permit Applications USE2005-00684, 685 & 686, Twinbrook Commons LLC

The applicant is requesting approval to build 157,185 square feet of retail, 325,000 square feet of office and 829 apartments in 10 buildings with detached parking structures located in the area bounded by Chapman Avenue, Twinbrook Parkway, Halpine Road and Ardennes Avenue.

Ms. Torma presented an overview of the approved PDP and proposed Phasing Plan. She stated that under the three use permits are five phases and five blocks.

In response to Commissioner Johnson regarding phasing schedule of the project, Ms. Torma explained that the applicant has decided to begin the construction of the temporary parking lot on Suburban Propane site and to modify the existing pedestrian walkways behind WMATA.

Ms. Marks presented the transportation phasing and mitigations of the project.

Ms. Torma presented an overview of the three use permits for Twinbrook Commons. She explained that **Use Permit USE2005-00686** is for a temporary surface parking lot in Phase 1D of the Twinbrook Commons development. The use permit will consist of the Suburban Propane site, which is proposed to be a 203-space, temporary surface parking lot for consumers using the Twinbrook Metro Station. The applicant informed staff that the temporary parking lot might remain for up to nine years. In addition, the applicant proposes a pedestrian walkway on the northeast side that will connect Halpine Road to the

existing commuter parking lot and to the entrance of Metro rail. Automobiles will enter this parking lot through the existing WMATA surface lot. This site is located east of the railroad tracks and south of the intersection of Halpine Road and Lewis Avenue.

Use Permit USE2005-00684 consists of Phase 1A (blocks E3, F1 and F2) and Phase 1B (blocks G2 and G3) that are all located on the east side and consists of three 4-story residential buildings, 470 residential units, including 71 MPDU's, and four retail and residential buildings with 1,411 off-street parking spaces. Ms. Torma noted that, on the approved PDP, it shows block F3, which has been joined with block F1. This project is located on a portion of the Twinbrook Commons development located east of the railroad tracks, north of Parklawn Drive and west of Ardennes Avenue and Twinbrook Parkway. The extension of Fishers Lane will run through the middle of this site.

Ms. Torma noted a correction under the Approval Limitations in the staff report – “that construction or operation must commence within **eight years, not two years** of this decision or application approval shall expire.”

Use Permit USE2005-00685 consists of Phase 1C (blocks A4), Phase 2A (blocks B1 and B2), Phase 2B (Blocks A1 through A3). This use permit is for the site located on the west side of the railroad tracks. The applicant proposes a mixed-use development with retail on the ground floor and either residential or office above. There are two parking garages proposed for this side and a “Kiss and Ride” loop for commuters. Ms. Torma stated that blocks A1 and A4 will be connected and contain retail with residential above and parking garage. The retail and residential building will be 16-stories, 170 feet high in block A1 and taper down to four stories, 55 feet high, in block A2. The retail consists of 78,850 square feet of retail that will be located on the ground floor and on the mezzanine level. In addition, there will be 359 residential units located in floors two through 16.

Mike Nicholas, Architect with Torti Gallas & Partners, Inc. responded to the Commission's questions regarding heights of the buildings.

Commissioner Johnson questioned Condition 4 of USE2005-00684 regarding a seven-foot tall iron fence with Phase 1A along the Halpine Church and Halpine Square town homes property line. He asked whether the fence would be temporary and whether there was a design of the fence. Ms. Torma replied that the fence is permanent and the neighbors adjacent to the project property have asked for this fence to prevent people from trespassing through their properties. Ms. Torma suggested that the condition should state that the fence be approved by the Planning staff. The Commission agreed.

Commissioner Hilton pointed out page 5 of the staff report regarding USE2005-00684 water and sanitary sewer. He asked staff if this was the only area in the City that will have new water and sanitary sewer mains. Mr. Mellander replied that there are other areas in the City such as King Farm development.

Commissioner Hilton also pointed out page 4 of the same staff report regarding a transit resource center. He said this has been a thorn in his side for he has not seen much return on

the dollar. Therefore, he is not a support of the transit resource center. Commissioner Hilton also questioned the matrix for the required expenditure for the entire project. He said he would like a better explanation of this matrix. Ms. Torma explained the calculations.

Commissioner Britton pointed out that the Commission's role tonight is to make sure that the use permits are consistent with approved PDP.

Rod Lawrence, Principal with JBG Companies commented that they are closer with the neighbors and staff on this plan and they are also very pleased with the changes that have been made, which have significantly improved the project. Mr. Lawrence stated that JBG have had meetings with the neighbors over some issues, particularly the phasing, which is very complicated. Mr. Lawrence stated that, with respect to the phasing, it is complicated because of the challenges such as keeping the amount of parking at the 1,151-space level. Therefore, JBG are moving things around and at times, the parking will receive that minimum. He said the goal is to start building the WMATA infrastructure in the early phase, but at the same time begin to build some much-needed housing at the Metro Station. This plan reflects that phasing.

Pat Harris, Attorney, commented that the PDP was before the Commission last December 2004 and the goal tonight is to make sure the use permits are consistent with the PDP. Since December until the time the Mayor and Council approved the PDP, there were four major changes to be pointed out to the Commission. Most significantly, the residential units decreased from 1700 to 1595 and during that time period, the WMATA had agreed to sell a portion of the site to the applicant so that there would be for sale units, which was in the keen interest of the community, and they are now working on the details. The third change was that the heights of the buildings along the west side of Street A and working with the community, they have submitted to keep those at a level of four stories and then finally, there was an issue regarding the public persons private streets. They have resolved that by dedicating to the City from back of curb to back of curb. Ms. Harris complimented staff; their diligence was reflected in a very detailed staff report, which is really going to be helpful to everyone for it will serve as a checklist as they go through the process.

Mike Nicholas Torti Gallas & Partners, Inc. presented the land use plan. Mr. Nicholas presented plans for the east side of the project. Mr. Nicholas also presented the landscape/streetscape plan for Use Permit USE2005-00684, which consists of 470 residential units, including 71 MPDUs, 59,585 square feet of retail space and 1,411 parking spaces. This project would introduce two new streets to the project beginning on Fishers Lane as it extends from Twinbrook Parkway into the site. Street A would connect Fishers Lane up to Ardennes Avenue. Mr. Nicholas also presented plans for the architecture of the buildings and the streetscape plan for the public streets throughout the site.

Mr. Nicholas presented plans for Use Permit USE2005-00686, Suburban Propane site, which is proposed to be a 203-space temporary surface parking lot near Lewis Avenue and Halpine Road. Mr. Nicholas stated that pedestrian and bike access will be provided from Halpine Road and through the interior of the site. He said the applicant will continue to

provide 24-hour access to the WMATA parking lots during and after construction of this development.

The Commission presented questions concerning other properties acquired, shifting of parking spaces on site during construction, access to the site, security lighting on the parking lot and pedestrian walkways.

Ms. Harris explained that there will be additional new lighting along the pedestrian path and it will be monitored for upgrading purposes.

Mr. Nicholas presented the plan USE2005-0winbrook Commons development that is located west of the railroad tracks, east of Chapman Avenue and north of Thompson Avenue. Mr. Nicholas discussed the landscaping/streetscape plan for the area. The proposal is for a mixed-use development with 220,000 square feet of retail on the ground floor and 1,595 residential units and 325,000 square feet of office use. There are proposed 2,409 private parking spaces and 1,151 parking spaces for WMATA commuters. There will be two parking garages for this side and a "Kiss and Ride" loop for commuters.

Mr. Nicholas further discussed the three phases for this development, design of the buildings, bus stations, parking garages, landscaping and streetscaping along Chapman Avenue, bicycle storage, entrance to the Metro site, height of the buildings, and architecture and scale of the buildings.

Commissioner Britton commented on the parking spaces for the proposed Musical Theater Center to be located in a portion of Building G2 as identified on the PDP.

The following citizens testified:

1. Harry Thomas, 1121 Lewis Avenue, stated that the parking lot at the Suburban Propane site is a new addition to the project and something that was not discussed with the Twinbrook Citizens Association (TCA). He noted that a citizen living near one of the parking lots near the Metro Station contacted him informing him that she had some problems with not having a fence next to the parking lot where someone could be in a car and jump out and grab a child or a person. Mr. Thomas suggested a four and a half high chain link fence could be there instead of what is there now. This was discussed with the Association and most people wanted the open space in lieu of a fence. JBG has met with TCA several times and they are up to date with the changes. Mr. Thomas commented on the City's traffic study and that they disagreed with five traffic-calming devices on Rockville Pike and Bou Avenue. Mr. Thomas stressed that traffic-calming devices should come into the Twinbrook Area. They have an overwhelming situation with working staff in coming to a compromise with what TCA believes should be installed in Twinbrook. He also addressed concerns regarding the temporary parking lot.
2. The owner of 1830 Chapman Avenue referred to the parking garage and the service drive to the entrance of the parking garage on page 28 in the staff report (USE2005-00685). The owner stated that the service drive for the parking garage would be right against the

wall of his building. He also referred to page 38 of the staff report and pointed out that some of the green area could be shifted near the wall of his building in lieu of the service drive.

After further discussion with staff and the Commission, it was agreed that a condition could be added to require a buffer between the owner's wall and the subject site.

3. Arthur Hamlin, owner of 1800 Chapman Avenue, testified that he is one of the owners of the property nearest to the Metro and he would like to see the same kind of relief that may be given to the owner of 1830 Chapman Avenue. Mr. Hamlin expressed his concern regarding the height of the proposed buildings. Commissioner Britton explained that PDP process and that the height of the proposed buildings is in keeping with the approved PDP for this property.

In response to the Commission, Mr. Hamlin stated that he did not receive a notice for this meeting tonight. He said he has not attended any community meetings regarding this project because he is not usually in the area. Mr. Hamlin explained that his building is a one-story manufacturing building and it is currently vacant.

Ms. Torma explained the approval process and noted a buffer could be placed to protect the existing buildings, but the garage would have to be modified and moved back from its proposed location.

In response to the Commission, Mr. Nicholas explained the proposed placement of the garage with regard to the setback requirements.

Commissioner Britton stated his concern regarding the PDP process and whether it would affect the public health, safety and welfare of the community. He explained that Mr. Hamlin could petition the City for any changes to accommodate the existing buildings near the site.

Mr. Hamlin commented that the property is leased to someone and the building is vacant at this time.

4. Jim McLean testified that he is the President of the Cambridge Walk Homeowners Association, which is the townhouse community adjacent to Twinbrook Commons proposed development. He said that they work with JBG and the City to identify their concerns and they are very happy with the present plan. Mr. McLean noted that they are the people who are interested in the linear park and the iron fence along the Halpine Church and Halpine Square town homes property line to protect the community from trespassers. Mr. McLean stated that they are also concerned about the transition between this massive development and their homes. The community hopes that this development will be looked at very carefully. Mr. McLean noted that the community has come to a consensus on a number of issues and one of the issues was that the pathway between the Metro and Halpine Road, and they believe that having one of those two fences removed would make it safer for pedestrians.

5. Brigitta Mullican, Lewis Avenue, stated that she has problems with the notification issue and she has questions on pages 25 and 31 of USE2005-00684 regarding traffic phasing and the USE2005-00685 regarding the fencing and safety issue and also the mitigation improvements regarding Brook Street. Ms. Mullican stated that she did not receive notification for this meeting. Ms. Mullican asked the Commission/staff to clarify some of the conditions in the staff report regarding the temporary parking lot and the sidewalk on south side of Brooke Drive. She said she is not against this project.

In response to the Commission, Ms. Marks clarified Conditions 25 and 31 of USE2005-00684 regarding traffic mitigation and TCA recommendations.

Ms. Mullican stated her concerns regarding how the traffic mitigations would be implemented.

Commissioner Britton stated that this is one of the projects that the City has focused very seriously on regarding community outreach.

Commissioner Johnson inquired whether the Commission would have another opportunity to review this project. Ms. Block explained that the next step is the building permits.

Commissioner Britton deferred the issue of the fence to the interim process. He noted that he does not believe that removing the smaller fence would deter the criminals that half the people seem to be worried about; therefore, he would like the applicant to make sure that the temporary parking lot is secure.

Rod Lawrence commented on the fence in that, the time walk is not only for people coming through; it is also for people coming out of the lot to get down to the Metro station.

The Commission discussed concerns regarding details of the project and adequate trash pick-up.

Commissioner Holtz moved, seconded by Commissioner Johnson to approve Use Permit Application USE2005-00684 per staff recommendations and that the Chief of Planning shall approve the design of the iron fence. The motion passed unanimously.

Commissioner Johnson moved, seconded by Commissioner Wiener to approve Use Permit Application USE2005-00685 per staff recommendations and subject to a condition to require a buffer between existing buildings and the parking lot. The motion passed unanimously.

Commissioner Johnson moved, seconded by Commissioner Holtz to approve Use Permit Application USE2005-00686 per staff recommendations. The motion passed unanimously.

COMMISSION ITEMS

Old Business

The Commission discussed a freestanding bank issue.

Commissioner Hilton informed the Commission about his experience with selling his property to him and his wife's move to King Farm.

Chief of Planning Report

Mr. Mellander reported that there would be a joint worksession with the Mayor and Council on July 26, 2005 to review two optional method applications per the recent changes in the Zoning Ordinance with regard to the PDP application process. One application is for the Maryland Motors site on Rockville Pike. This application has been filed. The second application is for a property at the corner of Edmonston and Rockville Pike, next to the railroad tracks, by Champion Billiards for a small display showroom office.

ADJOURN

After further discussion, the meeting adjourned at 9:17 p.m.

Respectfully submitted,

Tyler Tansing, Commission Secretary